



4310-HC

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB00000.14300000.EU0000.LXSS129F0000 241A; N-88014; 11-08807; MO# 4500022284; TAS: 14X1109]

Notice of Realty Action: Direct Sale of Public Land in Esmeralda County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for disposal utilizing direct sale procedures, one parcel of public land totaling 5 acres, in Goldfield, Esmeralda County, Nevada. This parcel is being proposed for non-competitive (direct) sale to Esmeralda County under the provisions of Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and BLM sales and mineral conveyance regulations for the appraised fair market value of \$15,500.

DATES: Written comments regarding the proposed sale must be received by the BLM on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Written comments concerning the proposed sale should be sent to Thomas J. Seley, Field Manager, BLM Tonopah Field Office, 1553 S. Main Street, P.O. Box 911, Tonopah, NV 89049.

FOR FURTHER INFORMATION CONTACT: Alan Buehler, Supervisory Geologist, BLM Tonopah Field Office, 1553 S. Main Street, P.O. Box 911, Tonopah, Nevada

89049, 775-482-7800. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The following described public land lies within the Town of Goldfield, is being proposed for direct sale to Esmeralda County, and is legally described as:

Mount Diablo Meridian

T. 3 S., R. 42 E.,

sec. 3, lot 14.

The area described contains 5 acres, more or less, in Esmeralda County.

On [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the above described land will be segregated from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA. Upon publication of this Notice of Realty Action and until completion of the sale, the BLM will no longer accept land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the Federal Register of a termination of the segregation, or on March 5, 2014, unless extended by the BLM Nevada State Director in accordance with 43 CFR 2711.1-2(d) prior to the termination date.

Consistent with Section 203 of the FLPMA, a tract of public land may be sold where, as a result of approved land use planning, sale of the tract meets the disposal criteria of that section. The public land is identified as suitable for disposal in the BLM Tonopah Resource Management Plan (RMP), Appendix 14, pages A-46 through A-49, dated October 2, 1997, and is not needed for any other Federal purpose. A portion of the proposed sale area (4 acres) is currently authorized by right-of-way (ROW) N-31308 for a water facility to Esmeralda County. Disposal would alleviate the continued administration of this land use authorization. Regulations contained in 43 CFR 2711.3-3 make allowances for direct sales when a competitive sale is not appropriate and the public interest would be best served by a direct sale. The proposed action is consistent with 43 CFR part 2710, the objectives, goals, and decisions of the RMP such as the Lands and Realty objective to make lands available for community expansion and private economic development and to increase the potential for economic diversity.

The land meets the criteria for direct sale under FLPMA, Section 203(a)(3) and 43 CFR 2710.0-3(a)(2), where the disposal of such tract shall serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on lands other than public lands and which outweigh other public objectives and values. The parcel will be offered through direct sale procedures pursuant to 43 CFR 2711.3-3. The direct sale would not change the status quo in that no other land uses are expected for these lands.

The BLM prepared an environmental assessment (EA), DOI-BLM-NV-B020-2010-0154-EA, and provided a 30-day public comment period. No comments were received and a finding of no significant impact and decision record was signed on

July 26, 2011. The EA, Environmental Site Assessment, Mineral Potential Report, and map are available for review at the BLM Tonopah Field Office at the address above and online at the following Website: www.blm.gov/nv/st/en/fo/battle_mountain_field.html.

Esmeralda County has expressed an interest in purchasing, by direct sale, the surface and subsurface estate of these lands to be used as the permanent site of a water treatment facility for the Town of Goldfield, Nevada. As proof of this interest, Esmeralda County approved Resolution No. 09-R-16, "Resolution Regarding Purchasing Property from the Bureau of Land Management for the Goldfield Water Treatment Facility" on October 6, 2009. The proposed sale site has been used by the county since 1981 as a water storage and distribution facility under ROW N-31308. The proposed area is being considered for a direct sale by the BLM because, among other things, it would serve an important local public objective of facilitating Esmeralda County's efforts to construct new facilities and bring its local water supply into compliance with the Safe Drinking Water Act. Part of the water compliance process would require addressing higher than acceptable levels of arsenic and other substances. A direct sale would therefore also serve the purpose of removing the lands from Federal ownership and mitigating any potential hazardous materials liability to the United States in the future.

The public land would not be offered for sale until at least [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], at the appraised market value of \$15,500. A copy of the approved appraisal is available at the address above. The patent, if issued, will be subject to the following terms, conditions, and reservations:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);
2. The parcel is subject to all valid existing rights;
3. Easement N-89535 (N-89268) for aerial line purposes granted to Sierra Pacific Power Company, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761); and
4. Easement N-89536 (N-73706) for fiber optic line purposes granted to Nevada Bell, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

The purchaser, by accepting patent, agrees to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind arising from the past, present, or future acts or omissions of the patentee, its employees, agents, contractors, or lessees, or any third-party arising out of, or in connection with, the patentee's use, occupancy or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee, its employees, agents, contractors, or lessees, or third party arising out of or in connection with the use and/or occupancy of the patented real property resulting in: (1) Violations of Federal, State, and local laws and regulations that are now, or in the future become, applicable to the real property; (2) Judgments, claims, or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into, or under

land, property, and other interests of the United States; (5) Other activities by which solids or hazardous substances or wastes, as defined by Federal and State environmental laws are generated, released, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1988 (100 Stat. 1670), notice is hereby given that the above-described land has been examined and no evidence was found to indicate that any hazardous substances has been stored for 1 year or more, nor had any hazardous substances been disposed of or released on the subject property. To the extent required by law, all parcels are subject to the requirements of Section 120(h) of CERCLA.

No representation, warranty, or covenant of any kind, express or implied, will be given or made by the United States, its officers or employees as to access to or from the above described parcel of land, the title to the land, whether or to what extent the land may be developed, its physical condition or its past, present or potential uses, and the conveyance of any such parcel will not be on a contingency basis. It is the buyer's responsibility to be aware of all applicable Federal, State, and local government policies and regulations that would affect the subject lands. It is also the buyer's responsibility to

be aware of existing or prospective uses of nearby properties. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

The disposal parcel contains no known mineral values pursuant to 43 CFR 2720.0-6 and 2720.2(a). The BLM Mineral Potential Report dated December 16, 2010, recommends that the United States convey all mineral rights to Esmeralda County; therefore, the BLM proposes that the conveyance of the Federal mineral interests occur simultaneously with the sale of the land. In addition to the appraised fair market value, the purchaser, Esmeralda County, will be required to pay a \$50 non-refundable filing fee for conveyance of the available mineral interests. The purchaser will have 30 days from the date of receiving the sale offer to accept the offer and to submit a deposit of 20 percent of the purchase price, the \$50 filing fee for conveyance of mineral interests, and for payment of publication costs. The purchaser must remit the remainder of the purchase price within 180 days from the date the sale offer is received. Payments must be by certified check, U.S. postal money order, bank draft, or cashier's check, and made payable to the U.S. Department of the Interior – BLM or conduct an electronic funds transfer. Arrangements for electronic funds transfer to the BLM for the balance due shall be made a minimum of 2 weeks prior to payment. Failure to meet conditions established for this sale will void the sale and any monies received will be forfeited.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment — including your personal identifying information — may be made publicly available at any

time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Any adverse comments regarding the proposed sale will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who

may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior.

(AUTHORITY: 43 CFR 2711.1-2(a) and (c))

Thomas J. Seley
Field Manager, Tonopah

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